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2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 - - - - - X
CV-00-2881

5 DEPARTMENT OF AMAZONAS,
6 ET AL,

7 Plaintiffs,

8 v.

9 PHILLIP MORRIS COMPANIES,
ET AL,

10 Defendants.

:
:
: United States Courthouse
: Brooklyn, New York

: October 13, 2000
: 10:00 o'clock a.m.

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13 TRANSCRIPT OF ORAL ARGUMENT
14 BEFORE THE HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE

15 APPEARANCES:

16 For the Plaintiffs:

KEVIN MALONE, ESQ.
JOHN HALLORAN, ESQ.
CARLOS ACEVEDO, ESQ.
FRANK GRANITO, ESQ.

18 For the Defendants:

IRVIN NATHAN, ESQ.
DAVID BERNICK, ESQ.
CHRISTOPHER MAN, ESQ.

20 For non-party Deft:

RONALD ROLFE, ESQ.

21 Court Reporter:

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24 Proceedings recorded by mechanical stenography, transcript
25 produced by CAT.

1 the counsel of record as well as them.

2 THE COURT: Did you receive the letter, gentlemen?

3 MR. HALLORAN: May I be heard?

4 THE COURT: I don't know that I want to have a
5 substantive discussion about the accusations or the
6 conclusions that are set forth in the letter or that have been
7 set forth here. I simply want to know whether you received it
8 and what you're planning to do about the request that's been
9 made.

10 MR. HALLORAN: We received the letter yesterday
11 afternoon. Given the short amount of time that we had to
12 address and evaluate the problem, we took some very serious
13 steps because these are very serious allegations.

14 The first thing I did, while I am not a signatory to
15 this contract, my firm is not a signatory to the contract, I
16 asked for a copy. I ascertain it's governed by Louisiana
17 law. The retainer agreement has a specific choice of law
18 provision in it that makes this relationship governed by
19 Louisiana law and the ethical guidelines of that jurisdiction.

20 THE COURT: What is the relationship -- I really
21 don't want to get that far afield. You piqued my curiosity.
22 What is the relationship between this litigation and
23 Louisiana?

24 MR. HALLORAN: The first contracting party, Sacks &
25 Smith, one of the cocounsel to plaintiffs in this case is a

1 Louisiana law firm. That is the nexus, your Honor.

2 Moreover, we ascertained, based upon an informal
3 opinion from Louisiana ethics expert, this agreement appears
4 to comport with all ethical guidelines of the State of
5 Louisiana. We are dealing here with a matter upon which
6 Mr. Nathan truly doesn't have standing. He's not an aggrieved
7 party nor is his client. There are, as you suggest,
8 mechanisms for addressing this.

9 What I would suggest to your Honor, if there's any
10 question about whether this contract comports with Louisiana
11 law or New York law, we're prepared to submit this matter to a
12 neutral detached law professor from a respected New York Law
13 School to opine whether the contract is in any way afoul of
14 New York ethical provisions or Louisiana ethical provisions
15 and if the contract comports with the law, that's the end of
16 the matter.

17 On the other hand, if the professor finds something
18 needs to be fixed, we commit to you that we will fix it. We
19 are acting in good faith here. We take these allegations very
20 seriously.

21 MR. NATHAN: May I respond briefly?

22 THE COURT: Yes.

23 MR. NATHAN: I can't stand here as an expert on
24 Louisiana law, I don't know what the law is. We made a quick
25 search. I believe this would not comply with Louisiana law.